

REMARKS

CLAIM REJECTIONS - 35 U.S.C. 102

Applicant will agree that newly cited Edwards (U.S. Pat. No. 3,543,438) is relevant to the subject matter of claims 1, 4 and 9 in that it discloses, in the embodiment shown in Figures 4 and 5, a self supporting block made of filamentary material bonded together by filaments of polyethylene which are dispersed throughout the bulk of the material and which, when heated, bond to the adjacent material, i.e., effectively act as an adhesive.

However, Edwards does not disclose or suggest the use of an adhesive in aqueous dispersion which is dispersed throughout the sphagnum moss. Indeed, Edwards teaches away from this type of product:- see column 3, lines 67-70 - "it is important to note that the adhesive material cannot be mixed at random with the plant growth material to build up the assembly since the mixture must be able to absorb water in order to properly support plant growth."

In view of the above, the claims and corresponding parts of the description of the present application have been amended to include the subject matter of former claim 2 in claim 1 and to delete reference to the use of a thermoplastic adhesive.

The claims are now limited to a self supporting block formed from sphagnum moss which is bound together by a binding material which is dispersed through the sphagnum moss, this binding material being a compatible adhesive and being an aqueous dispersion.

It is urged that this patentably distinguishes between the present invention and the invention of Edwards, which, as noted above, is emphatic that the adhesive material cannot be dispersed through the plant growth material. The Examiner quotes column 3, lines 21-22 of Edwards as the basis for saying that the adhesive is dispersed through the sphagnum moss because this part of the description in Edwards refers to the adhesive

"penetrating through the thickness of the entire assembly". With due respect, the Examiner is mis-reading the Edwards description:- a careful reading shows that, as stated in column 3, line 15 onwards, the adhesive is simply disposed "along elongated areas of the assembly", i.e., the adhesive is actually sprayed "through the thickness of the material" only along the edges of the block and down the sides of what will become the smaller sub blocks:- the objective is to provide a large block with the edges strong and sealed and sub blocks with their edges 22 also reinforced and sealed. There is absolutely no disclosure of spraying the whole body of the plant growth material with adhesive.

Turning to the remaining claims, all of these claims depend upon claim 1 as amended, and it is therefore argued that the combination is novel and patentable over Edwards.

CLAIM REJECTIONS - 35 U.S.C. 103

All of the objections under 35 U.S.C. 103 depend on Edwards, and since Edwards teaches away from the present invention, all of the combinations, including Edwards, also teach away from Applicant as noted herefollowing:

The Examiner has rejected claim 3 on Edwards combined with JP1-157315, which does not disclose the present invention as the adhesive is not through the plant growth material (sphagnum moss), it is applied only through the thickness in defined areas. Additionally, in column 3, lines 67-69, Edwards specifically notes that the adhesive cannot be mixed at random with the plant growth material to build up the assembly. This teaches away from the present invention. Therefore, Edwards in view of JP1-157315 teaches away from claims 3 and 6.

In rejecting claims 7 and 8, the Examiner comments that Edwards discloses the use of cheese cloth and this was at the time recognized as an equivalent to shredded paper. Given that claim 8 is dependent on claim 5 or 7 which in turn are ultimately dependent on claim 1, and claim 1 is taught away from by Edwards (see Column 3, lines 67-69) this does not appear relevant.

The Examiner indicates claim 14 to be unpatentable over Edwards in view of Langezaal et al. (U.S. Patent No. 5,218,783). Given that claim 14 also ultimately depends on claim 1, and as indicated above, Edwards teaches away from claim 1 (see Column 3, lines 67-69), Edwards in view of Langezaal et al. also teaches away from claim 1.

It is urged that, as all the rejected claims ultimately depend on claim 1, and claim 1 is taught away from by Edwards, the addition of Edwards to Langezaal, JP1-157315 and Ellegaard ceases to make them more relevant. In fact, it would appear to strengthen the applicant's case that the present application is new, novel and inventive.

The Examiner has accepted that sphagnum moss and peat moss are different, and are seen as different by the skilled worker in the art. This is confirmed as the Examiner now depends on Edwards to combine with the earlier cited documents Ellegaard, JP1-157315 and Langezaal et al. to reject the remaining claims. As Edwards teaches away from the present invention, specifically excluding it for practical reasons at Column 3, lines 67-69, any combination of documents dependent on Edwards must similarly teach away.

The Examiner indicates that the combination of Ellegaard and JP1-157315 discloses the casings of the present invention. This may be the case, however, the casing is in combination with the invention, as claimed in Applicant's claim 1; therefore, if claim 1 is novel, then combining it with known integers does not remove its novelty.

Second, the compatible adhesive of the present invention is used to bind the mass of sphagnum moss, not provide a casing as disclosed in Ellegaard. Ellegaard further discloses in claim 1 that "...a method for manufacturing block bodies of a growth substrate packed in a casing..." and then defining the manufacture of the casing. The abstract describes "a block body of growth substrate ... packed in a casing" (Column 7, lines 12-13), there is no further discussion in the specification of binding this growth substrate to form a self-supporting block body. The support comes from the invention, a special casing. Further, as indicated in Applicant's previous response of February 6, 2003, Ellegaard does not disclose the use of living sphagnum moss.

If the adhesive of JP1-157315 were used for Ellegaard, the growth substrate would still not be self supporting without the casing. Therefore, Applicant contends that if one skilled in the art were to combine the adhesive of JP1-157315 with Ellegaard the result would still be the casing disclosed in Ellegaard, which does not disclose the Applicant's invention.

Further, as indicated in Applicant's Response to the Office Action mailed in November, 2002, JP1-157315 does not disclose sphagnum moss; therefore, combining it with another document (Ellegaard) that also does not relate to sphagnum moss would not lead one skilled in the art to the Applicant's invention specifically for sphagnum moss.

The Examiner cites Langezaal et al. in view of Edwards as disclosing the present invention. Edwards teaches away from the present invention and uses "polyethylene or the like" as a melt bond adhesive. Langezaal et al. discloses the use of polyethylene as a melt bond adhesive. Neither of these melt bond adhesives are considered compatible adhesives as disclosed in the present application, as amended, since they are not capable of forming an aqueous dispersion.

Further to the Examiner's comments regarding the combination of Ellegaard and JP1-157315, it is difficult to see why one skilled in the art would combine these. Ellegaard is directed to a casing that holds a growth substrate, whereas JP1-157315 is directed to a shape retaining peat/peat moss base. Each is directed to a different problem: Ellegaard is providing a casing which breaks down over time and contains a growth substrate. JP1-157315 provides a self supporting growth substrate with no casing and no pre-determined break down characteristic.

The prior art made of record and not relied upon is not considered pertinent to Applicant's invention as now claimed. Collins, Wilson, Eaton et al., and Mosser Lee's Long Fibered Sphagnum Moss do not disclose or suggest the use of an adhesive in aqueous dispersion which is dispersed throughout the sphagnum moss, as now claimed.

Accordingly, the claims as amended are urged to particularly point out the invention and to avoid the Examiner's art.

Favorable consideration and passage to allowance are respectfully solicited.

No fees are considered to be due; however, if it is determined that payment of a fee is required, please charge our Deposit Account No. 13-0235.

Respectfully submitted,

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